

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

AUTO INDUSTRIES SUPPLIER
EMPLOYEE STOCK OWNERSHIP
PLAN (ESOP),

Plaintiff,

v.

Case No. 03-74357

SNAPP SYSTEMS, INC., a
Delaware Corporation,

HONORABLE AVERN COHN

Defendant/Third-Party Plaintiff,

v.

FORD MOTOR COMPANY,

Third-Party Defendant.

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**ORDER VACATING ORDER
OF BIFURCATION AND
REQUIRING ADDITIONAL PROFFERS**

A.

The order entered December 12, 2006 in part bifurcating liability and damages is VACATED. Liability and damages shall be tried together.

B.

On May 18, 2007, the Court held a status conference to chart the further course of the case and set a trial date. Because of the uncertain nature of plaintiff's proofs on damages, further proffers of proof are required before the case can be set for trial. To assure the Court's adequate understanding of the nature of the proofs on damages, plaintiff

shall promptly lodge with the Court:

1. A revised draft of the verdict form, which shall include questions on liability and damages to be answered by the jury.
2. A draft of the jury instructions on damages.
3. A complete analysis of the damages claimed correlated to the liability and damages questions as reflected in the revised draft verdict form. (Plaintiffs' tabular analysis of the damages claimed appears on its face to be unrealistic.
4. A list of the witnesses who will be called in support of the damage claims.

C.

The motions filed by defendant as follows:

- Ford Motor Company's Motion for Contempt and Motion to Strike SNAPP's Damages Claims and Evidence, [etc.]; and
- Ford Motor Company's Motion to Strike SNAPP's Attempt to Assert a New and Previously Unpled Mark-Up Claim, [etc.]

are pending. It appears that the motions can better be dealt with after plaintiff has made the proffers required under Section B. above. Accordingly, proceedings on these motions are STAYED until further order of the Court.

D.

Plaintiff shall file a response to defendant's pending summary judgment motion on tortious interference within ten (10) days. Defendant shall reply to the response within five (5) days following the filing of the response. Once the motion has been fully briefed, the Court will hold a hearing on the motion to determine whether or not its complexity requires reference it to a special master.

E.

The Court hopefully will schedule the case for trial in September, 2007. A trial date cannot be set until the Court is satisfied that the case is ready for trial. As of now, given the uncertain nature of plaintiff's proofs, particularly the amount claimed for each of plaintiff's claims, as follows:

- breach of the 1995 contract
- breach of the 1999 contract
- tortious interference with business expectations with
 - Covisint
 - General Motors
 - e-Steel
 - Other third-party suppliers

the case cannot be set for trial. Also, the motion for summary judgment on tortious interference must be resolved.

F.

Any objections to this Order shall be filed within forty-eight (48) hours.

SO ORDERED.

Dated: May 21, 2007

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was mailed to the parties of record on this date, May 21, 2007, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager, (313) 234-5160